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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-176**

13 **FREDERIC PAUL GARDON,**
14 **a.k.a. FRED GARDON**
15 **2740 Fourth Avenue**
16 **Sacramento, CA 95818**
17 **Registered Nurse License No. 601044**

ACCUSATION

Respondent.

18 Complainant alleges:

PARTIES

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about June 27, 2002, the Board issued Registered Nurse License Number
23 601044 (hereinafter "license") to Frederic Paul Gardon, also known as Fred Gardon
24 ("Respondent"). Respondent's license was immediately revoked, the revocation was stayed, and
25 Respondent was placed on probation for three years on terms and conditions, as set forth in
26 subparagraph 11 (a) below. On or about June 27, 2005, Respondent's license was revoked. The
27 revocation was stayed, and Respondent was ordered to complete the original three year probation
28 and to continue on probation without interruption for an additional two years subject to the same

1 term and conditions as provided in the original order. Respondent completed probation on June
2 27, 2007. Respondent's license will expire on August 31, 2011, unless renewed.

3 STATUTORY PROVISIONS

4 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
5 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
6 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
7 Practice Act.

8 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
9 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
10 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
11 (b), the Board may renew an expired license at any time within eight years after the expiration.

12 5. Code section 2761 states, in pertinent part:

13 The board may take disciplinary action against a certified or licensed
14 nurse or deny an application for a certificate or license for any of the following:

15 (a) Unprofessional conduct . . .

16 6. Code section 2762 states, in pertinent part:

17 In addition to other acts constituting unprofessional conduct within the
18 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

19 (a) Obtain or possess in violation of law, or prescribe, or except as
20 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
21 himself or herself, or furnish or administer to another, any controlled substance as
defined in Division 10 (commencing with Section 11000) of the Health and Safety
Code or any dangerous drug or dangerous device as defined in Section 4022 . . .

22 7. Health and Safety Code section 11170 states that no person shall prescribe,
23 administer, or furnish a controlled substance for himself.

24 COST RECOVERY

25 8. Code section 125.3 provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licensee found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case.

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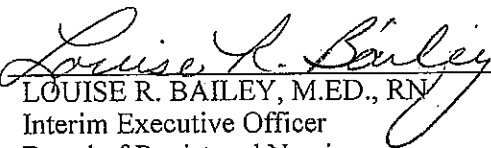
1 Case No. 2002-19, the Board revoked Respondent's license effective April 29, 2006. The
2 revocation was stayed, and Respondent was ordered to complete the original three year probation,
3 set forth in subparagraph (a) above, and to continue on probation without interruption for an
4 additional two years subject to the same term and conditions as provided in the original order.
5 Respondent admitted that he failed to comply with Condition 14 of his original probation by
6 testing positive for cannabinoids on December 23, 2003, and August 16, 2005. Respondent also
7 self-reported that he had tested positive for cannabinoids in a pre-employment drug screen in or
8 about October 2004.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number 601044, issued to
13 Frederic Paul Gardon, also known as Fred Gardon;
14 2. Ordering Frederic Paul Gardon, also known as Fred Gardon, to pay the Board of
15 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
16 pursuant to Business and Professions Code section 125.3;
17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 9/1/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition
to Revoke Probation Against:

FRED GARDON, aka FREDERIC PAUL
GARDON
2740 Fourth Avenue
Sacramento, CA 95818

Registered Nurse License No. 601044

Respondent

Case No. 2002-19

OAH No. N2005070927

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on April 29, 2006.

IT IS SO ORDERED March 30, 2006.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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of the State of California
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7 Attorneys for Complainant

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**

10 In the Matter of the Accusation/Petition to
Revoke Probation Against:

11 FRED GARDON, aka FREDERIC PAUL
12 GARDON

13 Respondent.
14

Case No. 2002-19

OAH No. N2005070927

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
17 above-entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
20 the Board of Registered Nursing. She brought this action solely in her official capacity and is
21 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Arthur
22 D. Taggart, Lead Supervising Deputy Attorney General.

23 2. Respondent Fred Gardon (Respondent) is represented in this proceeding
24 by attorney Robert F. Hahn, from the law firm Gould & Hahn, 5801 Christie Avenue, Suite 385
25 Emeryville, CA 94608.

26 3. On or about June 27, 2002, the Board of Registered Nursing issued
27 Registered Nurse No. 601044 to Fred Gardon (Respondent). The license will expire on August
28 27, 2007, unless renewed.

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1 (2) **COMPLY WITH PROBATION PROGRAM** - Respondent shall fully comply
2 with the terms and conditions of the Probation Program established by the Board and cooperate
3 with representative of the Board in its monitoring and investigation of the Respondent's
4 compliance with the Probation program. Respondent shall inform the Board in writing within no
5 more than 15 days of any address change and shall at all times maintain an active, current license
6 status with the Board, including during any period of suspension.

7 (3) **REPORT IN PERSON** - Respondent, during the period of probation, shall
8 appear in person at interview meetings as directed by the Board or its designated
9 representatives.

10 (4) 1. **RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE.**
11 Periods of residency or practice as a registered nurse outside of California shall not apply toward
12 a reduction of this probation time period. Respondent's probation is tolled, if and when he
13 resides outside of California. Respondent must provide written notice to the Board within 15
14 days of any change of residency or practice outside the state, and within 30 days prior to re-
15 establishing residency or returning to practice in this state.

16 Respondent shall provide a list of all states and territories where he has ever been
17 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
18 provide information regarding the status of each license and any changes in such license status
19 during the term of probation. Respondent shall inform the Board if he applies for or obtains a
20 new nursing license during the term of probation.

21 (5) **SUBMIT WRITTEN REPORTS** - Respondent, during the period of probation,
22 shall submit or cause to be submitted such written reports/declarations and verification of actions
23 under penalty of perjury as required by the Board. These reports/declarations shall contain
24 statements relative to Respondent's compliance with all the terms and conditions of the Board's
25 Probation Program. Respondent shall immediately execute all release of information forms as
26 may be required by the Board or its representatives.

27 (6) **FUNCTION AS A REGISTERED NURSE** - Respondent, during the period of
28 probation, shall engage in the practice of registered nursing in California for a minimum of 24

1 hours per week for six consecutive months or as determined by the Board. For purposes of
2 compliance with the section, "engage in the practice of registered nursing" may include, when
3 approved by the Board, as volunteer work as a registered nurse, or work in any non-direct patient
4 care position that requires licensure as a registered nurse. The Board may require that advanced
5 practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for six
6 consecutive months or as determined by the Board. If the Respondent has not complied with this
7 condition during the probationary, term, and the Respondent has presented sufficient
8 documentation of his good faith efforts to comp with this condition, and if no other conditions
9 have been violated, the Board, in its discretion, may grant an extension of the Respondent's
10 probation period up to one year without hearing in order to comply with this condition.

11 **(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS**

12 Respondent shall obtain prior approval from the Board before commencing any employment,
13 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
14 performance evaluations and other employment related reports as a registered nurse upon request
15 of the Board. Respondent shall provide a copy of this decision to his employer and immediate
16 supervisor prior to commencement of any nursing or other health care related employment.
17 Respondent shall notify the Board in writing seventy-two (72) hours after he obtains any nursing
18 or other health care related employment, when such employment is not as a registered nurse.
19 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated
20 from any registered nursing, other nursing, or other health care related employment with a full
21 explanation of the circumstances surrounding the termination.

22 **(8) SUPERVISION** - Respondent shall obtain prior approval from the Board
23 regarding Respondent's level of supervision and/or collaboration before commencing any
24 employment as a registered nurse. Respondent shall practice only under the direct supervision of
25 a registered nurse in good standing (no current discipline) with the Board of Registered Nursing,
26 unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice
27 nurse or physician) we approved. Respondent's level of supervision and/or collaboration may
28 include, but is not limited to the following:

1 (a) Maximum - The individual providing supervision and/or collaboration is present in
2 the patient care area or in any other work setting at all times. (b) Moderate - The individual
3 providing supervision and/or collaboration in the patient care unit or in any other work setting at
4 least half the hours Respondent works. (c) Minimum - The individual providing supervision
5 and/or collaboration has person-to-person communication with Respondent at least twice during
6 each shift worked. (d) Home Health Care - If Respondent is approved to work in the home
7 health care setting, the individual providing supervision and/or collaboration shall have to person
8 to person communication with Respondent as required by the Board each work day. Respondent
9 shall maintain telephone or other telecommunication contact with the individual providing
10 supervision and /or collaboration as required by the Board during each work day. The individual
11 providing supervision and/or collaboration shall conduct, as required by the Board, periodic,
12 onsite visits to patients' homes visited by the Respondent with or without Respondent present.

13 (9) **EMPLOYMENT LIMITATIONS** - Respondent shall not work for a nurse's
14 registry, in any private duty position as a registered nurse, a temporary nurse placement agency,
15 or for an in-house nursing pool. Respondent shall not work for a licensed home health agency as
16 a visiting nurse unless the registered nursing supervision and other protections for home visits
17 have been approved by the Board. Respondent shall not work in any other registered nursing
18 occupation where home visits are required. Respondent shall not work in any health care setting
19 as a supervisor or registered nurses. The Board may additionally restrict Respondent from
20 supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case
21 basis. Respondent shall not work as a faculty member in an approved school of nursing
22 as an instructor in a Board approved continuing education program. Respondent shall work only
23 on a regularly assigned, identified and determined worksite(s) and shall not work in a float
24 capacity. If the Respondent is working or intends to work in excess of 40 hours per week,
25 he Board may request documentation to determine whether there should be restrictions on the
26 lows of work.

27 (10) **COMPLETE A NURSING COURSE** - Respondent shall complete with a
28 appropriate requirement, as specified in the decision: (a) Respondent, at his own expense, shall

1 enroll and successfully complete course(s) relevant to the practice of registered nursing no later
2 than six months prior to the end of his probationary term; or (b) Respondent shall be suspended
3 from the practice of registered nursing, until he has enrolled in a successfully completed a
4 course(s) relevant to the practice of registered nursing. Respondent shall obtain prior approval
5 from the Board before enrolling in the course(s). Respondent shall submit to the Board the
6 original transcripts or certificates of completion for the above required courses(s). The Board
7 shall return the original documents to Respondent after photocopying them for its records.

8 (1 1) **VIOLATION OF PROBATION** - If a Respondent violates the conditions of
9 his probation, the Board after giving the Respondent notice and an opportunity to be heard, may
10 set aside the stay order and impose the stayed discipline (revocation/suspension) of the
11 Respondent's license. If during the period of probation, an accusation or petition to revoke
12 probation has been filed against Respondent's license or the Attorney General's Office has been
13 requested to prepare an accusation or petition to revoke probation against the Respondent's
14 license, the probationary period shall automatically be extended and shall not expire until the
15 accusation or petition has been acted upon by the Board. Upon successful completion of
16 probation, the Respondent's license will be fully restored.

17 (1 2) **PHYSICAL EXAMINATION** - Within a reasonable time approved by the
18 Board, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
19 physician assistant, who is approved by the Board before the assessment is performed, submit an
20 assessment of the Respondent's physical condition and capability to perform the duties of a
21 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
22 medically determined, a recommended treatment program will be instituted and followed by the
23 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
24 to the Board on forms provided by the Board. If Respondent is determined to be unable to
25 practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician
26 assistant making this determination shall immediately notify the Probation program and
27 Respondent by telephone. Respondent shall immediately cease practice and shall not resume
28 practice until notified by the Probation Monitor. During this period of suspension, Respondent

1 shall not engage in any practice for which a license issued by the Board is required until the
2 Probation Monitor has notified Respondent that a medical determination permits Respondent to
3 resume practice.

4 (13) **PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR**
5 **CHEMICAL DEPENDANCE** - Respondent, at his expense, shall successfully complete during
6 the probationary period or shall have successfully completed prior to commencement of
7 probation a Board-approved treatment rehabilitation program of at least six months. As required,
8 reports shall be submitted by the program on forms provided by the Board. If Respondent has
9 not completed a Board-approved treatment rehabilitation program prior to commencement of
10 probation, Respondent, within a reasonable time approved by the Board, shall be enrolled in a
11 program. If a program is not successfully completed within the first nine months of probation,
12 the Board shall consider Respondent in violation of probation. Based on Probation Program
13 recommendation, each week Respondent shall be required to attend at least one, but no more
14 than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics
15 Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse
16 support group is not available, and additional 12-step meeting or equivalent shall be added.
17 Respondent shall submit dated and signed documentation confirming such attendance to the
18 Board during the entire period of probation. Respondent shall continue with the recovery plan
19 recommended by the treatment rehabilitation program or a licensed mental health examiner
20 and/or other ongoing recovery groups.

21 (14) **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD ALTERING)**
22 **DRUGS** - Respondent shall completely abstain from the possession, injection or consumption by
23 any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are
24 ordered by a health care professional legally authorized to do so and are part of documented
25 medical treatment. Respondent shall have sent to the Board, in writing and within 14 days, by
26 the prescribing physician, or dentist, a report identifying the medication, dosage, the date the
27 medication was prescribed, the Respondent's prognosis, the date the medication will no longer
28 be required, and the effect on the recovery plan, if appropriate. Respondent shall identify for the

1 Board a single physician, nurse practitioner or physician assistant who shall be aware of
2 Respondent's history of substance abuse and will coordinate and monitor any prescriptions for
3 Respondent for dangerous drugs, controlled substances or mood altering drugs. The coordinating
4 physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis
5 Respondent's compliance with this condition. If any substances considered addictive have been
6 prescribed, the report shall identify a program for the time limited use of any such substances.
7 The Board may require the single coordinating physician, nurse practitioner, or physician
8 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
9 medicine.

10 (1 5) **SUBMIT TO TESTS AND SAMPLES** - Respondent, at his expense, shall
11 participation a random, biological fluid testing or a drug screening program which the Board
12 approves. The length of time and frequency will be subject to approval of the Board. The
13 respondent is responsible for keeping the Board informed of Respondent's current telephone
14 number at all times. Respondent shall also ensure that messages may be left at the telephone
15 number when he is not available and ensure that reports are submitted directly by the testing
16 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
17 to the Board by the program and the Respondent shall be considered in violation of probation.
18 In addition, Respondent, at any time during the period of probation, shall fully cooperate with the
19 Board or any of its representatives, and shall, when requested, submit to such tests and samples
20 as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics,
21 dangerous drugs, or other controlled substances. If Respondent has a positive drug screen for any
22 substance not legally authorized and not reported to the coordinating physician, nurse
23 practitioner, or physician assistant, and the Board files a petition to revoke probation or an
24 accusation, the Board may suspend Respondent from practice pending the final decision on the
25 petition to revoke probation or the accusation.

26 (1 6) **MENTAL HEALTH EXAM SUBSTANCE ABUSE ASSESSMENT** - The
27 Respondent shall, within a reasonable time approved by the Board, have a mental health
28 examination including psychological testing as appropriate to determine his capability to perform

1 the duties of a registered nurse. The examination must be performed by a licensed psychiatrist,
2 psychologist or other mental health practitioner, approved by the Board, who has experience in
3 the diagnosis and treatment of chemical dependency and alcoholism. The examiner must submit
4 a written narrative report of the examination. All costs are the responsibility of the Respondent.
5 If Respondent is determined to be unable to practice safely as a registered nurse, the licensed
6 mental health care practitioner making the determination shall immediately cease practice and
7 may not resume practice until notified by the Probation Monitor. During the period of
8 suspension, Respondent shall not engage in any practice for which a license issued by the
9 Board is required, until the Probation Monitor has notified Respondent that a mental health
10 determination permits Respondent to resume practice. If the examiner discovers that the
11 Respondent is or has been dependent upon drugs or alcohol or has had problems with drugs or
12 alcohol (i.e., drug dependence in remission or alcohol dependence in remission, then the
13 Respondent must further comply with the following additional terms and conditions of probation:

14 (17) **THERAPY OR COUNSELING PROGRAM** - Respondent, at his expense,
15 shall participate in an on-going counseling program until such time as the Board releases him
16 from this requirement and only upon the recommendation of the counselor. Written progress
17 reports from the counselor will be required at various intervals.

18 (18) **COST RECOVERY** - Respondent shall pay to the Board costs associated with
19 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
20 amount of eight hundred dollars. (\$800.00). Respondent shall be permitted to pay these costs in
21 a payment plan approved by the Board
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10/06/2005 13:41 FAX 3278643

DEPARTMENT OF JUSTICE

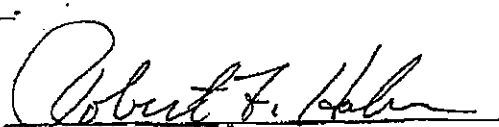
013

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert F. Hahn. I understand the stipulation and the effect it will have on my Registered Nurse. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 10/11/05
FRED GARDON (Respondent)
Respondent

I concur with this stipulated settlement.

DATED: 10/11/05
ROBERT F. HAHN
Attorney for RespondentENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing.

DATED: 10/12/05BILL LOCKYER, Attorney General
of the State of California
ARTHUR D. TAGGART
Lead Supervising Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SA2005100915
10189574.wpd

Exhibit A

Accusation/Petition to Revoke Probation No. 2002-19

1 BILL LOCKYER, Attorney General
of the State of California
2 ARTHUR TAGGART, State Bar No. 83047
Lead Supervising Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5339
Facsimile: (916) 327-8643

6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
Against:

13 **FRED PAUL GARDON, aka**
14 **FREDERIC PAUL GARDON**
2740 Fourth Avenue
Sacramento, California 95818

15 Registered Nurse License No. 601044

16 Respondent.
17

Case No. 2002-119

OAH No. 2002020227

**PETITION TO REVOKE
PROBATION**

18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Petition to Revoke Probation solely in her official
21 capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer
22 Affairs.

23 **Registered Nurse License**

24 2. On or about June 27, 2002, the Board of Registered Nursing issued
25 Registered Nurse License Number 601044 to Frederic Paul Gardon, also known as Fred Frederic
26 Paul Gardon ("Respondent"). Effective, June 15, 2002, the Board adopted a Stipulated
27 Settlement and Disciplinary Order in settlement of Accusation No. 2002-119. Respondent's
28 Registered Nurse License Number 601044, was revoked with the revocation stayed and

1 Respondent was placed on probation for three years with terms and conditions. The registered
2 nurse license will expire on August 31, 2005, unless renewed.

3 **STATUTORY PROVISIONS**

4 3. Under Business and Professions Code section 2750, the Board of
5 Registered Nursing may discipline any license, including a licensee holding a temporary or an
6 inactive license, for any reason provided in Article 3 of the Nursing Practice Act.

7 4. Under Business and Professions Code section 125.3, the Board may
8 request the administrative law judge to direct a licensee found to have committed a violation or
9 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
10 and enforcement of the case.

11 **PETITION TO REVOKE PROBATION**

12 5. Grounds exist for revoking the probation and reimposing the order of
13 revocation of Respondent's Registered Nurse License No. 601044. Condition 11 of the
14 Stipulated Settlement and Disciplinary Order in Accusation No. 2002-119 states, in pertinent
15 part:

16 If a Respondent violates the conditions of his probation, the Board after
17 giving the Respondent notice and an opportunity to be heard, may set aside the
18 stay order and impose the stayed discipline (revocation/suspension) of the
Respondent's license.

19 If during the period of probation, an accusation or petition to revoke
20 probation has been filed against Respondent's license or the Attorney General's
21 Office has been requested to prepare an accusation or petition to revoke probation
against the Respondent's license, the probationary period shall automatically be
extended and shall not expire until the accusation or petition has been acted upon
by the Board.

22 6. Respondent has violated the terms and conditions of probation as set forth
23 in the following paragraphs:

24 **FIRST CAUSE TO REVOKE PROBATION**

25 **(Failure to Abstain from the Use of Drugs/Alcohol)**

26 7. At all times after the effective date of Respondent's probation, Condition
27 14 stated:

28 ///

1 Respondent shall completely abstain from the possession, injection or
2 consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except
3 when the same are ordered by a health care professional legally authorized to do so and are part
4 of documented medical treatment. Respondent shall have sent to the Board, in writing and
5 within 14 days, by the prescribing physician, or dentist, a report identifying the medication,
6 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
7 medication will no longer be required, and the effect on the recovery plan, if appropriate.

8 Respondent shall identify for the Board a single physician, nurse practitioner or
9 physician assistant who shall be aware of Respondent's history of substance abuse and will
10 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
11 substances or mood altering drugs. The coordinating physician, nurse practitioner, or physician
12 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
13 condition. If any substances considered addictive have been prescribed, the report shall identify a
14 program for the time limited use of any such substances.

15 The Board may require the single coordinating physician, nurse practitioner, or
16 physician assistant to be a specialist in addictive medicine, or to consent with a specialist in
17 addictive medicine.

18 8. Respondent's probation is subject to revocation because he failed to
19 comply with Probation Condition 14, referenced above. The facts and circumstances regarding
20 this violation are that Respondent tested positive for Cannabinoids on December 23, 2003 and
21 August 16, 2004. Respondent also self-reported that he had tested positive for cannabinoids in a
22 pre-employment drug screen in or about October 2004.

23 **SECOND CAUSE TO REVOKE PROBATION**

24 **(Failure to Comply with the Probation Program)**

25 9. At all times after the effective date of Respondent's probation, Condition 2
26 stated:

27 Respondent shall fully comply with the terms and conditions of the Probation
28 Program established by the Board and cooperate with representatives of the Board in its

1 monitoring and investigation of the respondent's compliance with the Probation Program.
2 Respondent shall inform the Board in writing no more than 15 days of any address change and
3 shall at all times maintain an active, current license status with the Board, including during any
4 period of suspension.

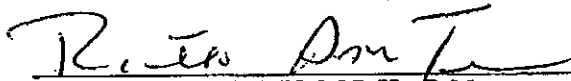
5 10. Respondent's probation is subject to revocation because he failed to
6 comply with Probation Condition 2, referenced above. The facts and circumstances regarding
7 this violation are that respondent failed to comply with the Probation Program, as set forth in
8 paragraph 7, above.

9 WHEREFORE, petitioner prays that a hearing be held and that the Board of
10 Registered Nursing make its order:

11 1. Revoking probation and reimposing the order of revocation of Registered
12 Nurse License Number 601044, issued to Fred Frederic Paul Gardon, also known as Frederic
13 Paul Gardon;

14 2. Taking such other and further action as may be deemed proper and
15 appropriate.

16
17 DATED: 5/4/05

18
19 
20 RUTH ANN TERRY, M.P.H., R.N.
21 Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California

25
26
27 Complainant

28 03579110SA2005100915
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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2002-119

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No.2002-119

**FRED GARDON, A.K.A. FREDERIC PAUL
GARDON**

2740 Fourth Avenue
Sacramento, CA 95818

Applicant/Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on June 15th, 2002.

It is so ORDERED May 16th, 2002.

Sandra L. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 JOEL S. PRIMES, State Bar No. 42568
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, California 94244-2550
5 Telephone: (916) 324-5340
Facsimile: (916) 327-8643
6
7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

13 **FRED GARDON, A.K.A. FREDERIC PAUL**
14 **GARDON**
2740 Fourth Avenue
15 Sacramento, CA 95818

Applicant/Respondent.

Case No. 2002-119
OAH No. N2002020227

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with
18 the public interest and the responsibility of the Board of Registered Nursing of the Department of
19 Consumer Affairs, (hereinafter "Board"), the parties hereby agree to the following Stipulated
20 Settlement and Disciplinary Order which will be submitted to the Board for its approval and
21 adoption as the final disposition of the pending Statement of Issues.

22 Respondent Fred Gardon, a.k.a., Frederic Paul Gardon, (hereinafter
23 "Respondent"), and complainant, Ruth Ann Terry, R.N., Executive Officer, Board of Registered
24 Nursing, Department of Consumer Affairs, State of California, through her counsel, Deputy
25 Attorney General, Joel S. Primes, hereby stipulate that the following matters are true.

26 1. On or about June 1, 2001, the Board received an Application for Licensure by
27 Examination from Fred Gardon, a.k.a., Frederic Paul Gardon (hereinafter
28 "Applicant/Respondent"). On or about May 31, 2001, Applicant/Respondent certified under

1 penalty of perjury that the information contained in the application was true and correct..

2 2. Respondent was duly served with the Statement of Issues denying his
3 application for licensure, which is on file and pending in case No. 2002-119, and accompanying
4 documents. A copy of the Statement of Issues is attached hereto as an exhibit and is incorporated
5 by reference as though set forth at length herein. Respondent is subject to the jurisdiction of the
6 Board in regard to the matters alleged in the Statement of Issues.

7 WAIVER OF RIGHTS

8 3. Respondent has read and understands the charges and allegations of violations
9 of the Business and Professions Code contained in the Statement of Issues and his rights under
10 the Administrative Procedure Act.

11 4. Respondent is aware of and understands his right to retain legal counsel to
12 advise and represent him in this matter. To the extent Respondent has not exercised the right to
13 counsel, he has done so knowingly, freely, and voluntarily.

14 5. Respondent withdraws the Notice of Defense previously filed in this matter,
15 and agrees to be bound by the terms of this Stipulation, and of the Decision and Order, and freely
16 and voluntarily waives any rights he may have in this proceeding to a hearing on the charges and
17 allegations contained in the Statement of Issues, to reconsideration, to appeal, to judicial review,
18 and to all other rights which he may have under the California Administrative Procedures Act
19 and the laws and regulations of the State of California.

20 BASIS FOR DISCIPLINE

21 6. Respondent admits the truth of each and every factual allegation contained
22 in Statement of Issues No.2002-119, and further admits that cause exists for the issuance and
23 placement of his initial license on probation as follows:

24 Grounds exist for the denial of respondent's application under Business and
25 Professions Code sections 480, 2736, 2750, 2761, 2762.

26 FIRST CAUSE FOR DENIAL OF APPLICATION

27 (Conviction of Crime)

28 7. Grounds exist to deny Applicant/Respondent's application for

1 licensure under sections 480(a)(1) and 2761(f) of the Code in that on or about September 16,
2 1999, Applicant/Respondent was convicted by the court upon his plea of nolo contendere of
3 violating Vehicle Code section 23103(b) (reckless driving), in Sacramento County Superior
4 Court, Case Number 99T03095, entitled *People v. Frederic Paul Gardon*.

5 7. The circumstances of the conviction are substantially related to the
6 qualifications, functions or duties of a registered nurse, as defined by Title 16, California Code
7 of Regulations, section 1444, in that it evidences to a substantial degree a present or potential
8 unfitness on the part of Applicant/Respondent to perform the functions authorized by the license
9 in a manner consistent with the public health, safety, or welfare when, on or about May 30, 1999,
10 Applicant/Respondent drove a vehicle in an offstreet parking facility with a willful or wanton
11 disregard for the safety of persons or property.

12 SECOND CAUSE FOR DENIAL OF APPLICATION

13 (Acts as Grounds for Discipline)

14 8. Grounds exist to deny Applicant/Respondent's application for licensure
15 under sections 480(a)(3) of the Code in that, as set forth under paragraphs 12 and 13 above,
16 Applicant/Respondent committed an act which if committed by a licensee would have been
17 grounds for discipline under section 2761(f) of the Code.

18 THIRD CAUSE FOR DENIAL OF APPLICATION

19 (Committed Acts Constituting Grounds for Discipline)

20 9. Grounds exist to deny Applicant/Respondent's application for licensure
21 under sections 480(a)(3) of the Code in that on or about October 4, 2000, in the County of
22 Sacramento, California, Applicant/Respondent unlawfully planted, cultivated, harvested, dried,
23 and processed marijuana without a prescription therefor and without any other legal authority to
24 do so, acts which if committed by a licensee would have been grounds for discipline under
25 section 2762(a) of the Code.

26 10. The foregoing admissions are made only for the purpose of this
27 proceeding and any subsequent proceedings between Respondent and the Board, the State of
28 California and any of its agencies, and any other government agency responsible for licensing

1 registered nurses. In the event this Stipulation is not adopted by the Board, the admissions made
2 herein shall be null and void, and may not be used by the parties for any purpose.

3 11. It is understood by Respondent that, in deciding whether to adopt this
4 Stipulation, the Board may receive oral and written communication from its staff and the
5 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
6 Board or other persons from future participation in this or any other matter affecting Respondent.
7 In the event this Stipulation is not adopted by the Board, the Stipulation will not become
8 effective and may not be used for any purpose, except for this paragraph, which shall remain in
9 effect.

10 WHEREFORE, it is stipulated that the Board of Registered Nursing may issue the
11 following Decision and Order:

12 DECISION AND ORDER

13 The application of respondent Fred Gardon, a.k.a. Frederic Paul Gardon for
14 Licensure is hereby granted. Upon successful completion of all licensing requirements, a license
15 shall be issued to respondent. Said license shall immediately be revoked, the order of revocation
16 stayed and respondent placed on probation for a period of three (3) years on the following terms
17 and conditions:

18 Severability Clause - Each term and condition of probation contained herein is a
19 separate and distinct term and condition. If any term and condition of this Order, or any
20 application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of
21 this Order, and all other applications thereof, shall not be affected. Each term and condition of
22 this Order shall separately be valid and enforceable to the fullest extent permitted by law.

23 (1) OBEY ALL LAWS - Respondent shall obey all federal, state and local laws.
24 A full and detailed account of any and all violations of law shall be reported by the Respondent
25 to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
26 compliance with this term, Respondent shall submit completed fingerprint cards and fingerprint
27 fees within 45 days of the effective date of the decision, unless previously submitted as part of
28 the licensure application process. Respondent shall submit a recent 2" x 2" photograph of

1 himself within forty-five (45) days of the effective date of the final decision.

2 (2) COMPLY WITH PROBATION PROGRAM - Respondent shall fully comply
3 with the terms and conditions of the Probation Program established by the Board and cooperate
4 with representative of the Board in its monitoring and investigation of the Respondent's
5 compliance with the Probation Program. Respondent shall inform the Board in writing within no
6 more than 15 days of any address change and shall at all times maintain an active, current license
7 status with the Board, including during any period of suspension.

8 (3) REPORT IN PERSON - Respondent, during the period of probation, shall
9 appear in person at interviews/meetings as directed by the Board or its designated
10 representatives.

11 (4) RESIDENCY OR PRACTICE OUTSIDE OF STATE - Respondent shall be
12 bound by the terms and conditions of the Disciplinary Order as of its effective date. However the
13 period of probation shall be tolled, and the terms and conditions of the Disciplinary Order shall
14 be stayed until Respondent enters the State of California to practice nursing at a future date.
15 With the exception of terms and conditions number 1, 4, and 12 set forth herein, which shall not
16 be stayed and which shall be fully complied with by Respondent during the entire length of the
17 probationary term. Respondent shall give written notice to the Board of Respondent's intention
18 to practice nursing in California thirty (30) days prior to engaging in any activity requiring a
19 registered nurse license issued by the Board. Failure to comply with the notice requirements
20 shall constitute a violation of probation and a basis for revoking probation and Respondent's
21 California registered nurse license.

22 (5) SUBMIT WRITTEN REPORTS - Respondent, during the period of probation,
23 shall submit or cause to be submitted such written reports/declarations and verification of actions
24 under penalty of perjury as required by the Board. These reports/declarations shall contain
25 statements relative to Respondent's compliance with all the terms and conditions of the Board's
26 Probation Program. Respondent shall immediately execute all release of information forms as
27 may be required by the Board or its representatives.

28 PROVIDE DECISION - Respondent shall provide a copy of this decision to

1 the nursing regulatory agency in every state and territory in which he has a registered nurse
2 license.

3 (6) FUNCTION AS A REGISTERED NURSE - Respondent, during the period of
4 probation, shall engage in the practice of registered nursing in California for a minimum of 24
5 hours per week for six consecutive months or as determined by the Board.

6 For purposes of compliance with the section, "engage in the practice of registered
7 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
8 work in any non-direct patient care position that requires licensure as a registered nurse.

9 The Board may require that advanced practice nurses engage in advanced practice
10 nursing for a minimum of 24 hours per week for six consecutive months or as determined by the
11 Board.

12 If the Respondent has not complied with this condition during the probationary
13 term, and the Respondent has presented sufficient documentation of his good faith efforts to
14 comply with this condition, and if no other conditions have been violated, the Board, in its
15 discretion, may grant an extension of the Respondent's probation period up to one year without
16 further hearing in order to comply with this condition.

17 (7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS-

18 Respondent shall obtain prior approval from the Board before commencing any employment,
19 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
20 performance evaluations and other employment related reports as a registered nurse upon request
21 of the Board.

22 Respondent shall provide a copy of this decision to his employer and immediate
23 supervisor prior to commencement of any nursing or other health care related employment.

24 Respondent shall notify the Board in writing seventy-two (72) hours after he
25 obtains any nursing or other health care related employment, when such employment is not as a
26 registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours
27 after he is terminated from any registered nursing, other nursing, or other health care related
28 employment with a full explanation of the circumstances surrounding the termination.

1 (8) SUPERVISION - Respondent shall obtain prior approval from the Board
2 regarding Respondent's level of supervision and/or collaboration before commencing any
3 employment as a registered nurse.

4 Respondent shall practice only under the direct supervision of a registered nurse
5 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
6 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
7 are approved.

8 Respondent's level of supervision and/or collaboration may include, but is not
9 limited to the following:

10 (a) Maximum - The individual providing supervision and/or collaboration
11 is present in the patient care area or in any other work setting at all times.

12 (b) Moderate - The individual providing supervision and/or collaboration
13 is in the patient care unit or in any other work setting at least half the hours Respondent works.

14 (c) Minimum - The individual providing supervision and/or collaboration
15 has person-to-person communication with Respondent at least twice during each shift worked.

16 (d) Home Health Care - If Respondent is approved to work in the home
17 health care setting, the individual providing supervision and/or collaboration shall have to person
18 to person communication with Respondent as required by the Board each work day. Respondent
19 shall maintain telephone or other telecommunication contact with the individual providing
20 supervision and /or collaboration as required by the Board during each work day. The individual
21 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
22 site visits to patients' homes visited by the Respondent with or without Respondent present.

23 (9) EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's
24 registry, in any private duty position as a registered nurse, a temporary nurse placement agency,
25 or for an in-house nursing pool.

26 Respondent shall not work for a licensed home health agency as a visiting nurse
27 unless the registered nursing supervision and other protections for home visits have been
28 approved by the Board. Respondent shall not work in any other registered nursing occupation

1 where home visits are required.

2 Respondent shall not work in any health care setting as a supervisor or registered
3 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
4 nurses and/or unlicensed assistive personnel on a case-by-case basis.

5 Respondent shall not work as a faculty member in an approved school of nursing
6 or as an instructor in a Board approved continuing education program.

7 Respondent shall not work only on a regularly assigned, identified and
8 predetermined worksite(s) and shall not work in a float capacity.

9 If the Respondent is working or intends to work in excess of 40 hours per week,
10 the Board may request documentation to determine whether there should be restrictions on the
11 hours of work.

12 (10) COMPLETE A NURSING COURSE(S) - Respondent shall complete with a
13 appropriate requirement, as specified in the decision:

14 (a) Respondent, at his own expense, shall enroll and successfully complete
15 a course(s) relevant to the practice of registered nursing no later than six months prior to the end
16 of his probationary term; or

17 (b) Respondent shall be suspended from the practice of registered nursing,
18 until he has enrolled in a successfully completed a course(s) relevant to the practice of registered
19 nursing.

20 Respondent shall obtain prior approval from the Board before enrolling in the
21 course(s). Respondent shall submit to the Board the original transcripts or certificates of
22 completion for the above required courses(s). The Board shall return the original documents to
23 Respondent after photocopying them for its records.

24 (11) VIOLATION OF PROBATION - If a Respondent violates the conditions of
25 his probation, the Board after giving the Respondent notice and an opportunity to be heard, may
26 set aside the stay order and impose the stayed discipline (revocation/suspension) of the
27 Respondent's license.

28 If during the period of probation, an accusation or petition to revoke probation has

1 been filed against Respondent's license or the Attorney General's Office has been requested to
2 prepare an accusation or petition to revoke probation against the Respondent's license, the
3 probationary period shall automatically be extended and shall not expire until the accusation or
4 petition has been acted upon by the Board. Upon successful completion of probation, the
5 Respondent's license will be fully restored.

6 (12) PHYSICAL EXAMINATION - Within a reasonable time approved by the
7 Board, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
8 physician assistant, who is approved by the Board before the assessment is performed, submit an
9 assessment of the Respondent's physical condition and capability to perform the duties of a
10 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
11 medically determined, a recommended treatment program will be instituted and followed by the
12 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
13 to the Board on forms provided by the Board.

14 If Respondent is determined to be unable to practice safely as a registered nurse,
15 the licensed physician, nurse practitioner, or physician assistant making this determination shall
16 immediately notify the Probation program and Respondent by telephone. Respondent shall
17 immediately cease practice and shall not resume practice until notified by the Probation Monitor.
18 During this period of suspension, Respondent shall not engage in any practice for which a license
19 issued by the Board is required until the Probation Monitor has notified Respondent that a
20 medical determination permits Respondent to resume practice.

21 (13) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR
22 CHEMICAL DEPENDANCE - Respondent, at his expense, shall successfully complete during
23 the probationary period or shall have successfully completed prior to commencement of
24 probation a Board-approved treatment/rehabilitation program of at least six months. As required,
25 reports shall be submitted by the program on forms provided by the Board. If Respondent has
26 not completed a Board-approved treatment/rehabilitation program prior to commencement of
27 probation, Respondent, within a reasonable time approved by the Board, shall be enrolled in a
28 program. If a program is not successfully completed within the first nine months of probation,

1 the Board shall consider Respondent in violation of probation.

2 Based on Probation Program recommendation, each week Respondent shall be
3 required to attend at least one, but no more than five 12-step recovery meetings or equivalent
4 (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as
5 approved and directed by the Board. If a nurse support group is not available, and additional 12-
6 step meeting or equivalent shall be added. Respondent shall submit dated and signed
7 documentation confirming such attendance to the Board during the entire period of probation.
8 Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation
9 program or a licensed mental health examiner and/or other ongoing recovery groups.

10 (14) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD ALTERING)

11 DRUGS - Respondent shall completely abstain from the possession, injection or consumption by
12 any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are
13 ordered by a health care professional legally authorized to do so and are part of documented
14 medical treatment. Respondent shall have sent to the Board, in writing and within 14 days, by
15 the prescribing physician, or dentist, a report identifying the medication, dosage, the date the
16 medication was prescribed, the Respondent's prognosis, the date the medication will no longer
17 be required, and the effect on the recovery plan, if appropriate.

18 Respondent shall identify for the Board a single physician, nurse practitioner or
19 physician assistant who shall be aware of Respondent's history of substance abuse and will
20 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
21 substances or mood altering drugs. The coordinating physician, nurse practitioner, or physician
22 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
23 condition. If any substances considered addictive have been prescribed, the report shall identify
24 a program for the time limited use of any such substances.

25 The Board may require the single coordinating physician, nurse practitioner, or
26 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
27 addictive medicine.

28 (15) SUBMIT TO TESTS AND SAMPLES - Respondent, at his expense, shall

1 participate in a random, biological fluid testing or a drug screening program which the Board
2 approves. The length of time and frequency will be subject to approval of the Board. The
3 Respondent is responsible for keeping the Board informed of Respondent's current telephone
4 number at all times. Respondent shall also ensure that messages may be left at the telephone
5 number when he is not available and ensure that reports are submitted directly by the testing
6 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
7 to the Board by the program and the Respondent shall be considered in violation of probation.

8 In addition, Respondent, at any time during the period of probation, shall fully
9 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
10 tests and samples as the Board or its representatives may require for the detection of alcohol,
11 narcotics, hypnotics, dangerous drugs, or other controlled substances.

12 If Respondent has a positive drug screen for any substance not legally authorized
13 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
14 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
15 from practice pending the final decision on the petition to revoke probation or the accusation.

16 (16) MENTAL HEALTH EXAM/SUBSTANCE ABUSE ASSESSMENT - The
17 Respondent shall, within a reasonable time approved by the Board, have a mental health
18 examination including psychological testing as appropriate to determine his capability to perform
19 the duties of a registered nurse. The examination must be performed by a licensed psychiatrist,
20 psychologist or other mental health practitioner, approved by the Board, who has experience in
21 the diagnosis and treatment of chemical dependency and alcoholism. The examiner must submit
22 a written narrative report of the examination. All costs are the responsibility of the Respondent.

23 If Respondent is determined to be unable to practice safely as a registered nurse,
24 the licensed mental health care practitioner making the determination shall immediately cease
25 practice and may not resume practice until notified by the Probation Monitor. During the period
26 of suspension, Respondent shall not engage in any practice for which a license issued by the
27 Board is required, until the Probation Monitor has notified Respondent that a mental health
28 determination permits Respondent to resume practice.


1 If the examiner discovers that the Respondent is or has been dependent upon
2 drugs or alcohol or has had problems with drugs or alcohol (i.e., drug dependence in remission or
3 alcohol dependence in remission), then the Respondent must further comply with the following
4 additional terms and conditions of probation:

5 (17) THERAPY OR COUNSELING PROGRAM - Respondent, at his expense,
6 shall participate in an on-going counseling program until such time as the Board releases him
7 from this requirement and only upon the recommendation of the counselor. Written progress
8 reports from the counselor will be required at various intervals.

9 IT IS FURTHER STIPULATED AND AGREED that the terms of this
10 Stipulation shall be subject to the acceptance of the Board of Registered Nursing. If the Board
11 fails to accept this Stipulation, it shall be of no force or effect for either party, and the matter will
12 be regularly set for hearing.

13 DATED: March 26, 2002.

14 BILL LOCKYER, Attorney General
15 of the State of California

16 
17 JOEL S. PRIMES
18 Deputy Attorney General

19 ACCEPTANCE

20 I hereby state that I have read and understand the legal significance and
21 consequence of this Stipulation, and I fully understand all of, and agree to be bound by, the
22 terms of this document. I understand that I have certain rights under the California
23 Administrative Procedure Act and the laws and regulations of the State of California in regard to
24 this matter, and I knowingly and intelligently waive those rights.

25 I understand my right to retain legal counsel to advise me in this matter. To the
26 extent that I have not exercised that right, I have done so knowingly and voluntarily.

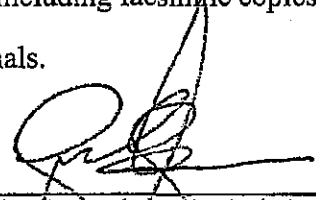
27 I also understand that once I sign this Stipulation, I shall not be permitted to
28

1 withdraw from it unless it is rejected by the Board.

2 I further understand that this Stipulation may not be accepted by the California
3 Board of Registered Nursing, in which case it is of no effect.

4 I have carefully read the above Stipulated Settlement and Disciplinary Order, and
5 I fully understand the terms and conditions and other matters contained therein, I understand the
6 effect this stipulation will have on my Registered Nurse License. I enter into this Stipulated
7 Settlement voluntarily, knowingly and intelligently and agree to be bound by the Disciplinary
8 Order and Decision of the Board of Registered Nursing. I further agree that a facsimile copy of
9 this Stipulated Settlement and Disciplinary Order, including facsimile copies of signatures, may
10 be used with the same force and effect as the originals.

11 DATED: 3/19, 2002.


Fred Gardon, a.k.a., Frederic Paul Gardon
Applicant Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
4 Affairs.

5 DATED: March 26, 2002.

6 BILL LOCKYER, Attorney General
7 of the State of California


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9 _____
10 JOEL S. PRIMES
11 Deputy Attorney General
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Exhibit A:
Statement of Issues, Case No. 2002-119

1 BILL LOCKYER, Attorney General
of the State of California
2 JOEL S. PRIMES, State Bar No. 42568
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5340
Facsimile: (916) 324-5567

6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No.2002-119

13 **FRED GARDON, A.K.A. FREDERIC PAUL**
14 **GARDON**

15 2740 Fourth Avenue
Sacramento, CA 95818

STATEMENT OF ISSUES

Applicant/Respondent.

16 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and files this
17 statement of issues in her official capacity as Executive Officer, Board of Registered Nursing,
18 Department of Consumer Affairs.

19 2. Section 2736 of the Business and Professions Code ("Code") provides that
20 the Board of Registered Nursing ("Board") may deny a license when it finds that the applicant
21 has committed any acts constituting grounds for denial of licensure under section 480 of the
22 Code.

23 3. Section 480(a)(1) of the Code provides, in pertinent part, that the Board
24 may deny a license regulated by the Code on the grounds that the applicant has been convicted of
25 a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a
26 conviction following a plea of nolo contendere.

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1 4. Section 480(a)(3) of the Code provides, in pertinent part, that the Board
2 may deny an application for licensure if the applicant has committed any act which, if done by a
3 licensee, would be grounds for discipline.

4 5. Section 2761(a) of the Code provides, in pertinent part, that the Board may
5 take disciplinary action against a certified or licensed nurse or deny an application for a
6 certificate or license for unprofessional conduct.

7 6. Section 2761(f) of the Code provides that the Board may deny a license if
8 the applicant has been convicted of a felony or any offense substantially related to the
9 qualifications, functions, and duties of a registered nurse.

10 7. Section 2762 of the Code provides:

11 "In addition to other acts constituting unprofessional conduct within the
12 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
13 licensed under this chapter to do any of the following:

14 "(a) Obtain or possess in violation of law, or prescribe, or except
15 as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or
16 herself, or furnish or administer to another, any controlled substance as defined in Division 10
17 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or
18 dangerous device as defined in Section 4022."

19 8. Health and Safety Code section 11358 provides that every person who
20 plants, cultivates, harvests, dries, or processes any marijuana or any part thereof, except as
21 otherwise provided by law, shall be punished by imprisonment in the state prison.

22 9. California Code of Regulations, Title 16, section 1444, states, in pertinent
23 part, that a crime or act shall be considered to be substantially related to the qualifications,
24 functions or duties of a registered nurse if to a substantial degree it evidences present or potential
25 unfitness of a registered nurse to perform the functions authorized by his/her license in a manner
26 consistent with the public health, safety, or welfare.

27 ///

28 ///

1 **DRUGS**

2 10. "Marijuana" is a Schedule I controlled substance as designated by Health
3 and Safety Code section 11054(d)(13).

4 **APPLICATION FOR LICENSURE**

5 11. On or about June 1, 2001, the Board received an Application for Licensure
6 by Examination from Fred Gardon, a.k.a. Frederic Paul Gardon (hereinafter
7 "Applicant/Respondent"). On or about May 31, 2001, Applicant/Respondent certified under
8 penalty of perjury that the information contained in the application was true and correct.

9 **FIRST GROUND FOR DENIAL OF LICENSURE**

10 (Conviction of Crime)

11 12. Grounds exist to deny Applicant/Respondent's application for
12 licensure under sections 480(a)(1) and 2761(f) of the Code in that on or about September 16,
13 1999, Applicant/Respondent was convicted by the court upon his plea of nolo contendere of
14 violating Vehicle Code section 23103(b) (reckless driving), in Sacramento County Superior
15 Court, Case Number 99T03095, entitled People v. Frederic Paul Gardon.

16 13. The circumstances of the conviction are substantially related to the
17 qualifications, functions or duties of a registered nurse, as defined by Title 16, California Code
18 of Regulations, section 1444, in that it evidences to a substantial degree a present or potential
19 unfitness on the part of Applicant/Respondent to perform the functions authorized by the license
20 in a manner consistent with the public health, safety, or welfare when, on or about May 30, 1999,
21 Applicant/Respondent drove a vehicle in an offstreet parking facility with a willful or wanton
22 disregard for the safety of persons or property.

23 **SECOND GROUND FOR DENIAL OF LICENSURE**

24 (Acts as Grounds for Discipline)

25 14. Grounds exist to deny Applicant/Respondent's application for licensure
26 under sections 480(a)(3) of the Code in that, as set forth under paragraphs 12 and 13 above,
27 Applicant/Respondent committed an act which if committed by a licensee would have been
28 grounds for discipline under section 2761(f) of the Code.

1 THIRD GROUND FOR DENIAL OF LICENSURE

2 (Acts as Grounds for Discipline)

3 15. Grounds exist to deny Applicant/Respondent's application for licensure
4 under sections 480(a)(3) of the Code in that on or about October 4, 2000, in the County of
5 Sacramento, California, Applicant/Respondent unlawfully planted, cultivated, harvested, dried,
6 and processed marijuana without a prescription therefor and without any other legal authority to
7 do so, acts which if committed by a licensee would have been grounds for discipline under
8 section 2762(a) of the Code.

9 PRAYER

10 WHEREFORE, complainant prays that a hearing be held and that if the
11 allegations set forth herein, or any of them, are found to be true that the Board issue a decision:

- 12 1. Denying the application of Fred Gardon, a.k.a. Frederic Paul Gardon;
13 2. Taking such other and further action as deemed necessary and proper.

14
15 DATED: 1/18/02

16
17 Ruth Ann Terry
18 RUTH ANN TERRY, M.P.H., R.N.
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant
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